

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Lisa S. Martin, Tracy A. Masson, Matthew S. Snyder, Philip F. Mallory		
Assignee:	Dell Products L.P.		
Title:	Inventory and Order Management Tool		
Serial No.:	09/773,102	Filed:	January 31, 2001
Examiner:	Elaine L. Gort	Group Art Unit:	3687
Docket No.:	DC-02830	Customer No.:	33438

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December 5, 2008

*Filed Electronically*

**SUPPLEMENTAL APPEAL BRIEF UNDER 37 CFR § 41.37**

Dear Sir:

Applicant submits this Appeal Brief pursuant to the Notice of Appeal filed in this case on November 3, 2008 and the Notification dated November 20, 2008. The fee for this Appeal Brief is being paid electronically via the USPTO EFS. The Board is also authorized to deduct any other amounts required for this appeal brief and to credit any amounts overpaid to Deposit Account. No. 502264.

**I. REAL PARTY IN INTEREST - 37 CFR § 41.37(c)(1)(i)**

The real party in interest is the assignee, Dell Products, L.P., as named in the caption above and as evidenced by the assignment set forth at Reel 011536, Frame 0958.

**II. RELATED APPEALS AND INTERFERENCES - 37 CFR § 41.37(c)(1)(ii)**

Based on information and belief, there are no appeals or interferences that could directly affect or be directly affected by or have a bearing on the decision by the Board of Patent Appeals and Interferences in the pending appeal.

**III. STATUS OF CLAIMS - 37 CFR § 41.37(c)(1)(iii)**

Claims 1 and 3-18 are pending in the application. Claims 2 and 19-25 have been canceled. Claims 1 and 3-18 stand rejected. The rejection of claims 1 and 3-18 is appealed. Appendix "A" contains the full set of pending claims.

**IV. STATUS OF AMENDMENTS - 37 CFR § 41.37(c)(1)(iv)**

No amendments after final have been requested or entered.

**V. SUMMARY OF CLAIMED SUBJECT MATTER - 37 CFR § 41.37(c)(1)(v)**

The present invention, as set forth by independent claim 1, relates to a method for a manufacturer to order material (See e.g., Application, page 4, lines 23 – 29.). The method includes considering a quantity of a material available from a plurality of suppliers via a computer system 232 (see e.g., Application, page 4, lines 23 – 24 and page 6, lines 27 – 28), considering a quantity of a material available from a plurality of supplier logistics centers via a computer system 230 (see e.g., Application, page 6, lines 26 – 27), identifying a supplier or a supplier logistics center to receive an order for the material based upon the considering 208 the quantity of material available from the plurality of suppliers and the considering the quantity of materials available from the plurality of supplier logistic centers (see e.g., Application, page 6, lines 2 – 10), and sending electronically an order for the particular material to the supplier or supplier logistics center identified to receive the order 216 (see e.g., Application, page 6, lines 11 – 15). The material is not ordered until a manufacturer realizes a demand. (See e.g., Application, page 4, lines 2 – 5.) The manufacturer realizes the demand for the material after orders are received from customers 204. Fulfilling the orders requires assembling the products (e.g., computer system 930) and assembling the products requires the material.

The present invention, as set forth by independent claim 7, relates to a method of assembling a computer system (e.g., computer system 930). The method includes considering a quantity of a material available from a plurality of suppliers via a computer system 232 (see e.g., Application, page 4, lines 23 – 24 and page 6, lines 27 – 28), considering a quantity of a material available from a plurality of supplier logistics centers via a computer system 232 (See e.g., Application page 4, lines 23 – 24 and page 6, lines 27 – 28), identifying a supplier or a supplier logistics center to receive an order for the material 208 based upon the considering the quantity

of material available from the plurality of suppliers and the considering the quantity of materials available from the plurality of supplier logistic centers (see e.g., Application, page 6, lines 2 – 10), ordering the material from the supplier or supplier logistics center identified to receive the order 216 (see e.g., Application, page 6, lines 11 – 15), and assembling the computer system at an assembly facility (e.g., 118, 120, 122, 124) from the material (see e.g., Application, page 8, lines 22 – 4).

The present invention, as set forth by independent claim 13, relates to a method of manufacturing a computer system (e.g., computer system 930). The method includes considering a quantity of material available from a plurality of suppliers via a computer system 232 (see e.g., Application, page 4, lines 23 – 24 and page 6, lines 27 – 28), considering a quantity of a material available from a plurality of supplier logistics centers via a computer system 232 (see e.g., Application, page 4, lines 23 – 24 and page 6, lines 27 – 28), identifying a supplier to receive an order for the material based upon the considering 208 the quantity of material available from the plurality of suppliers and the considering the quantity of materials available from the plurality of supplier logistic centers (see e.g., Application, page 6, lines 2 – 10), sending electronically an order for material to the supplier or supplier logistics center identified to receive the order 216 (see e.g., Application, page 6, lines 11 – 15), and manufacturing the computer system at a manufacturing facility (e.g., 118, 120, 122, 124) using the material received at the manufacturing facility (see e.g., Application, page 8, lines 22 – 4).

**VI. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL - 37 CFR § 41.37(c)(1)(vi)**

Claims 1 and 3-18 stand rejected under 35 U.S.C. §103 as being unpatentable over Goss, Great Britain Patent No. GB 2,366,003 A (Goss GB) in view of Shavit et al., U.S. Patent No. 4,799,156 (Shavit).

**VII. ARGUMENT - 37 CFR § 41.37(c)(1)(vii)**

**Notes regarding issues relating to present status of prosecution.**

Applicants note the following issues with the Office action mailed on May 22, 2008 and the Notice of Panel Decision for Pre-Appeal Brief Review mailed on October 3, 2008.

The Office action mailed on May 22, 2008 notes that the action is responsive to an amendment filed on December 6, 2007. However, it appears that the Office action is in fact responsive to the Notice of Appeal and Pre-Appeal Brief Request for Review filed on May 7, 2008. This Office action states that Applicant's amendment filed on December 6, 2007 necessitated the new grounds for rejection and thus the Action dated May 22, 2008 is made final. However, as noted, it appears that the Office action is in fact responsive to the Notice of Appeal and Pre-Appeal Brief Request for Review filed on May 7, 2008. Additionally, while the Remarks portion of the Office action notes that the rejection is Final, the Office Action Summary does not so indicate.

Additionally, the examiner rejects the claims over Goss GB in view of Shavit and indicates that this is a new grounds of rejection. However, Goss GB is the Published UK application which claims priority from Goss, U.S. Patent No. 6,236,901 B1 (Goss US), upon which the previous rejection was based. (See e.g., Page, 2 of the Final office action dated March 10, 2008.) Prosecution was reopened in light of the Pre-Appeal Brief Request for Review filed on May 7, 2008 over this previous rejection. In this Appeal Brief, Goss GB and Goss US are generally referred to as Goss.

Also, while the Notice of Panel Decision for Pre-Appeal Brief Review mailed on October 3, 2008 was signed, there was no indication of a decision from this Pre-Appeal Brief Request for Review. Accordingly, out of an abundance of caution, applicants are proceeding with filing an Appeal Brief in response to this Notice of Panel Decision.

**Claims 1 and 3-18 are allowable over Goss and Shavit.**

The present invention generally relates to a method for a manufacturer to order material. More specifically, in some embodiments, the invention relates to a method for a manufacturer to order material in which the material is not ordered until the manufacturer realizes a demand based upon orders received from customers. In other embodiments, the invention relates to a method for a manufacturer to order material in which the material from suppliers and supply logistics centers are considered when ordering the material to manufacture a computer system.

Goss discloses a build to order product assembly environment in which responsive to orders received; kit trays are prepared that each hold the components needed to build an ordered product. The kit tray is transferred to a work cell where a team builds the product. The product

is then tested and repaired, with information regarding any problems provided to the responsible work cell. Thus, within Goss, it is assumed that the components needed to prepare the kit trays are already present within the manufacturing facility. There is no discussion within Goss of how the components arrive at the manufacturing facility.

Accordingly, Goss provides no disclosure or suggestion relating to a method for a manufacturer to order material and specifically does not disclose or suggest material not ordered until the manufacturer realizes a demand, the manufacturer realizes the demand for the material after orders are received from customers, fulfilling the orders requires assembling products, and assembling the products requires the material.

Shavit discloses a system for interactive on-line electronic communications and processing of business transactions between a plurality of different types of independent users including sellers, and buyers, as well as financial institutions, and freight service providers. The system includes a data base which contains user information. The data base is accessed via a validation procedure to permit business transactions in an interactive on-line mode between users during interactive business transaction sessions where one party to the transaction is specifically selected by the other party. The system permits concurrent interactive business transaction sessions between different users.

When discussing Shavit, the Examiner set forth:

Shavit et al. discloses that it is old and well known in the art of inventory supply chains for buyers to communicate via a computer system with supplier and distributors (constructed as "supplier logistics centers") to determine which suppliers and/or distributors can meet the buyers needs for inventory items and quantities and where the buyer can then identify a supplier or distributor to submit their order to in order to provide buyer's with a fast, efficient and automated mode of procuring needed items (Office Action 05/22/08, Page 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the just-in-time method of supplying materials and manufacturing computers of Goss with the on-line ordering involving considering of quantities available from suppliers and distributors of Shavit et al., in order to provide fast, efficient and automated means for procuring desired materials/components. Examiner notes that in this modified scenario just-in-time truck deliveries would be ordered via the product ordering system of Shavit et al. when customer orders are submitted.(Office Action 05/22/08, Page 4).

However, as with Goss, Shavit does not disclose or suggest a method for a manufacturer to order material and specifically does not disclose or suggest material not ordered until the manufacturer realizes a demand, the manufacturer realizes the demand for the material after orders are received from customers, fulfilling the orders requires assembling products, and assembling the products requires the material. Additionally, it is noted that a request for quote does not inherently include quantities desired, much less identifying a supplier or a supplier logistics center to receive an order for material based upon considering the quantity of material available from the plurality of suppliers and considering the quantity of materials available from the plurality of supplier logistic centers and ordering material from the supplier or supplier logistics center identified to receive the order.

Thus, Goss and Shavit, taken alone or in combination, do not disclose or suggest a method which includes sending electronically an order for the particular material to the supplier or supplier logistics center identified to receive the order much less such a method where the material is not ordered until a manufacturer realizes a demand where the manufacturer realizes the demand for the material after orders are received from customers and where fulfilling the orders requires assembling the products and assembling the products requires the material, all as required by claim 1.

More specifically, Goss and Shavit, taken alone or in combination do not teach or suggest a method for a manufacturer to order material where the method includes, *identifying a supplier or a supplier logistics center to receive an order for the material based upon the considering the quantity of material available from the plurality of suppliers and considering the quantity of materials available from the plurality of supplier logistic centers, and sending electronically an order for the particular material to the supplier or supplier logistics center identified to receive the order and wherein the material is not ordered until a manufacturer realizes a demand where the manufacturer realizes the demand for the material after orders are received from customers and where fulfilling the orders requires assembling products and assembling the products requires the material*, all as required by amended independent claim 1. Accordingly, claim 1 is allowable over Goss and Shavit. Claims 3 – 6 depend from claim 1 and are allowable for at least this reason.

Additionally, Goss and Shavit, taken alone or in combination, do not disclose or suggest identifying *a supplier or supplier logistics center to receive an order for a material based upon considering a quantity of a material available*, much less *ordering the material from the supplier or supplier logistic center identified to receive the order and assembling the computer system at an assembly facility from the material received at the assembly facility*, as required by claim 7 and as generally required by claims 13 and 19.

More specifically, Goss and Shavit, taken alone or in combination do not teach or suggest a method of assembling *a computer system*, much less such a method which includes *identifying a supplier or a supplier logistics center to receive an order for the material based upon considering the quantity of material available from the plurality of suppliers and considering the quantity of materials available from the plurality of supplier logistic centers*, ordering the material from the supplier or supplier logistics center identified to receive the order, and assembling the computer system at an assembly facility from the material received at the assembly facility, all as required by independent claim 7. Accordingly, claim 7 is allowable over Goss and Shavit. Claims 8 – 12 depend from claim 7 and are allowable for at least this reason.

Goss and Shavit, taken alone or in combination do not teach or suggest a method of manufacturing *a computer system*, much less such a method which includes considering a quantity of a material available from a plurality of supplier logistics centers via a computer system, *identifying a supplier to receive an order for the material based upon considering the quantity of material available from the plurality of suppliers and considering the quantity of materials available from the plurality of supplier logistic centers*, sending electronically an order for material to the supplier or supplier logistics center identified to receive the order, and manufacturing the computer system at a manufacturing facility using the material received at the manufacturing facility, all as required by independent claim 13. Accordingly, claim 13 is allowable over Goss and Shavit. Claims 14 – 18 depend from claim 13 and are allowable for at least this reason.

#### **VIII. CLAIMS APPENDIX - 37 CFR § 41.37(c)(1)(viii)**

A copy of the pending claims involved in the appeal is attached as Appendix A.

#### **XI. CONCLUSION**

In view of the above arguments, it is respectfully urged that the rejection of the claims should not be sustained.

CERTIFICATE OF TRANSMISSIONS

I hereby certify that this correspondence is electronically submitted to the COMMISSION FOR PATENTS via EFS, on December 5, 2008.

*/Stephen A. Terrile/*

Respectfully submitted,

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## **APPENDIX A**

1. (Previously Presented) A method for a manufacturer to order material, comprising:
  - considering a quantity of a material available from a plurality of suppliers via a computer system;
  - considering a quantity of a material available from a plurality of supplier logistics centers via a computer system;
  - identifying a supplier or a supplier logistics center to receive an order for the material based upon the considering the quantity of material available from the plurality of suppliers and the considering the quantity of materials available from the plurality of supplier logistic centers; and
  - sending electronically an order for the material to the supplier or supplier logistics center identified to receive the orderwherein the material is not ordered until the manufacturer realizes a demand, wherein the manufacturer realizes the demand for the material after orders are received from customers, fulfilling the orders requires assembling products, and assembling the products requires the material.
2. (Cancelled)
3. (Previously Presented) The method as recited in claim 1, wherein when the order for the material is sent electronically to a supplier logistics center, the supplier logistics center previously received the material from a supplier.
4. (Previously Presented) The method as recited in claim 3, wherein the manufacturer takes title to the material after the material is shipped by the supplier.
5. (Original) The method as recited in claim 1, wherein the order requires delivery of the material within a specified period of time.

6. (Original) The method as recited in claim 5, wherein the specified period of time is less than one day.

7. (Previously Presented) A method of assembling a computer system, comprising:  
considering a quantity of material available from a plurality of suppliers via a computer system;  
considering a quantity of material available from a plurality of supplier logistics centers via a computer system;  
identifying a supplier or a supplier logistics center to receive an order for material based upon the considering the quantity of material available from the plurality of suppliers and the considering the quantity of materials available from the plurality of supplier logistic centers;  
ordering material from the supplier or supplier logistics center identified to receive the order; and  
assembling the computer system at an assembly facility from the material.

8. (Previously Presented) The method as recited in claim 7, wherein the material is ordered after a manufacturer realizes a demand, wherein the manufacturer realizes the demand for the material after orders are received from customers, fulfilling the orders requires assembling the computer system, and, assembling the computer system requires the material.

9. (Previously Presented) The method as recited in claim 7, wherein when the material is ordered from the supplier logistic center, the supplier logistics center previously received the material from a supplier.

10. (Original) The method as recited in claim 7, wherein the manufacturer takes ownership of the material after the material is shipped by the supplier.

11. (Original) The method as recited in claim 7, wherein the order specifies delivery of the material within a specified period of time.

12. (Original) The method as recited in claim 11, wherein the specified period of time is less than one day.

13. (Previously Presented) A method of manufacturing a computer system, comprising:

considering a quantity of material available from a plurality of suppliers via a computer system;

considering a quantity of a material available from a plurality of supplier logistics centers via a computer system;

identifying a supplier or a supplier logistics center to receive an order for the material based upon the considering the quantity of material available from the plurality of suppliers and the considering the quantity of materials available from the plurality of supplier logistic centers;

sending electronically an order for the material to the supplier or supplier logistics center identified to receive the order; and

manufacturing the computer system at a manufacturing facility using the material received at the manufacturing facility.

14. (Previously Presented) The method as recited in claim 13, wherein the material is ordered after a demand is realized by a manufacturer, wherein the manufacturer realizes the demand for the material after orders are received from customers, fulfilling the orders requires assembling the products, assembling the products requires the material.

15. (Previously Presented) The method as recited in claim 13, wherein when the material is shipped from a the supplier logistics center, wherein the supplier logistics center previously received the material from a supplier.

16. (Original) The method as recited in claim 13, wherein the manufacturer takes title to the material after the material is shipped by the supplier.

17. (Original) The method as recited in claim 13, wherein the order requires delivery of the material within a specified period of time.

18. (Previously Presented) The method as recited in claim 17, wherein the specified period of time is 1 day.

19 – 25. (Cancelled)

**EVIDENCE APPENDIX - 37 CFR § 41.37(c)(1)(ix)**

None.

**RELATED PROCEEDINGS APPENDIX - 37 CFR § 41.37(c)(1)(x)**

There are no related proceedings.